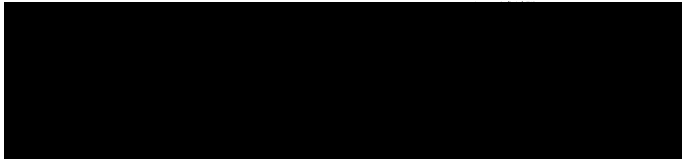




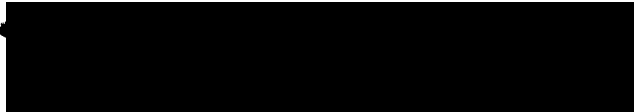
U.S. Citizenship  
and Immigration  
Services



FILE: LIN 02 207 51795 Office: NEBRASKA SERVICE CENTER

Date: JUN 24 2004

IN RE: Petitioner:  
Beneficiary:

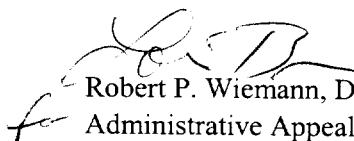


PETITION: Immigrant petition for Alien Worker as a Skilled Worker or Professional pursuant to section 203(b)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(3)

ON BEHALF OF PETITIONER: SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

Identifying information used to  
prevent clearly defined national  
information of personal privacy

RETRIEVE COPY

**DISCUSSION:** The Director, Nebraska Service Center, denied the preference visa petition was that is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The petitioner is a restaurant. It seeks to employ the beneficiary permanently in the United States as a cook. As required by statute, a Form ETA 750 Application for Alien Employment Certification approved by the Department of Labor accompanies the petition. The director determined that the petitioner had not established that it had the continuing ability to pay the beneficiary the proffered wage beginning on the priority date of the visa petition and denied the petition accordingly.

██████████ filed the appeal in this matter. ██████████ does not indicate that he is an attorney or an authorized representative. Further, the record contains no Form G-28, Notice of Entry of Appearance. The record contains no indication, therefore, that the petitioner has agreed to be represented by Mr. Nolan or that ██████████ is qualified to represent the petitioner.

The regulation at § 8 C.F.R. 103.3(a)(1)(iii) states, in pertinent part: “(B) *Meaning of affected party.* For purposes of this section and sections 103.4 and 103.5 of this part, *affected party* (in addition to [CIS]) means the person or entity with legal standing in a proceeding. It does not include the beneficiary of a visa petition.”

The regulation at § 8 C.F.R. 103.3(a)(2)(v) states:

*Improperly filed appeal -- (A) Appeal filed by person or entity not entitled to file it -- (1) Rejection without refund of filing fee.* An appeal filed by a person or entity not entitled to file it must be rejected as improperly filed. In such a case, any filing fee the Service has accepted will not be refunded.

The appeal was not filed by the petitioner, nor by any entity with legal standing in this proceeding. Only the affected party is permitted to file an appeal. 8 C.F.R. § 103.3(a)(2)(i).

Therefore, the appeal has not been properly filed, and must be rejected.

**ORDER:** The appeal is rejected.